IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2147 OF 2007
[FOR LEAVE TO APPEAL]
IN
CRIMINAL APPEAL NO. OF 2007

The State of Maharashtra. ..Applicant.
Versus
Javaharlal Mahadev Chavan. ..Respondent.

..
Smt.P.H.Kantharia, APP, for the Applicant-State.
Mr.V.V.Purwant, Adv. for the Respondent.
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CORAM : SMT.V.K.TAHILRAMANI,J.

DATE : DECEMBER 07, 2007.

P.C.:

1. The applicant-State of Maharashtra has filed this application for leave to appeal against the judgment and order of acquittal dated 16.02.2007 passed by the learned Adhoc Additional Sessions Judge, Solapur in Special Case No.3 of 2005. By the said judgment and order, the learned Sessions Judge acquitted respondent-accused of the offences punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, under Section 7(1)(d) of Protection of Civil Rights Act and under Sections

504, 506 of IPC.

2. Heard the learned APP for the applicant-State and the Advocate for the Respondent-orig.accused. Perused the judgment and order of the learned Sessions Judge and the evidence which has been produced by the learned APP.

3. The case of the complainant is that on 8.4.2004 at about 4:30 p.m. accused came to the office of the Superintendent of Sanitary Conservation. Accused started shouting and thereafter he made utterances which are reflected in the complaint. As per the prosecution case, PW-2 Suhas Karjal and PW-3 S.R. Ghodake were present there. They have also been examined. After perusing the deposition of all the three witnesses, it is seen that the evidence of all the three witnesses is contradictory as far as the actual utterances by the respondent-accused is concerned. It is also an admitted fact that PW-2 Suhas Karjal and PW-3 S.R.Ghodake were not knowing the caste of the respondent-accused. So also the

evidence of the complainant also shows that he was also not knowing the caste of the accused prior to the filing of FIR. So also, it is not mentioned anywhere that the respondent-accused belongs to higher caste. In such case, it is surprising to note that when the complainant was not knowing the caste of the accused how the offence came to be registered under the SC & ST Act or PCR Act.

4. As far as giving of abuses and threats to the complainant is concerned, it has already been observed above by me that there is no consistency regarding the threats and abuses. From the evidence of the witnesses it is seen that there are contradictions. On this aspect, PW-2 Suhas Karjal and PW-3 S.R.Ghodake do not corroborate the complainant and their version is different from that given by the complainant. All these aspects have been taken into consideration by the learned Sessions Judge and thereafter he has acquitted the respondent-Accused.

5. Looking to material on record, I am of the opinion that the view taken by the learned

Sessions Judge is a reasonable and possible view.

6. It is well settled that if the view of acquittal could have been reasonably arrived at then mere circumstance that the lower Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, I am referring to only two of them i.e. **AIR 1971 SC 66 Khedu Mohton and Ors. Vs. State of Bihar and C.Anthony Vs. K.G.Raghavan Nair, (2003) 1 SCC 1**. In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in Appeal substitute its findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Sessions Judge is a reasonable and possible view, hence, no interference is called for. Application for leave to appeal is rejected. Consequently, Appeal also stands dismissed.

(SMT.V.K.TAHILRAMANI,J.)